

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of LAYNE HESTER, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JOSEPH MICHAEL HESTER,

Respondent-Appellant,

and

AMANDA RICHARDS HESTER,

Respondent.

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UNPUBLISHED

April 24, 2007

No. 274747

Hillsdale Circuit Court

Family Division

LC No. 03-000125-NA

Before: Cavanagh, P.J., and Jansen and Borrello, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (h), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On October 24, 2005, respondent-father was convicted of breaking and entering, MCL 750.110, and attempted breaking and entering, MCL 750.110(a), and was sentenced on December 12, 2005 to concurrent terms of three to ten years' imprisonment and three to five years' imprisonment, respectively. On, February 27, 2006 respondent-father was also convicted of perjury and sentenced on April 10, 2006 to a consecutive term of two to five years' imprisonment. On August 31, 2006, a petition for termination of respondent-father's parental rights to Layne Hester was filed.

Respondent-father's parental rights were terminated under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (h), and (j), which provide that the court may terminate parental rights to a child if it finds by clear and convincing evidence one or more of the following:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant failed to rectify the conditions that led to adjudication and worsened the conditions by returning to prison despite having had opportunities to turn his life around. Respondent-appellant failed to provide proper care or custody of his child while out of prison and has no means of being able to do so in the foreseeable future. His daughter will be deprived of his proper care and custody well in excess of the statutory minimum of two years.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Therefore, the trial court did not err in terminating respondent-appellant's parental rights to the minor child.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen  
/s/ Stephen L. Borrello